

LAW OFFICES OF

McDONNELL & ASSOCIATES, P.C.

500 Route 70 West
Cherry Hill New Jersey 08002
Telephone: (856) 429-5300
Facsimile: (856) 429-5314

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601 South Henderson Road, Suite 152
King of Prussia, PA 19406
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Reply To: **Cherry Hill, NJ**

E-Mail Address: rpaglione@mcdca-law.com

Patrick J. McDonnell *
Courtney Seda McDonnell
Karen L. Green *
Roberto K. Paglione *
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Jason E. Fine *
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John M. Guthrie * †

* Admitted in Pennsylvania and New Jersey
† Admitted in New York

November 6, 2005

United States District Court for the
Eastern District of Pennsylvania
U.S. Courthouse
601 Market St., Room 2609
Philadelphia, PA 19106-1797

Attention: Clerk of Courts

Re: **June Cerene v. Wal-Mart Stores, Inc., et al.**
Civil Action No.: _____

Dear Sir/Madam:

Enclosed herein please find the following:

- [xx] Notice of Removal with Civil Cover Sheet, Appendix F and Case Management Track Designation Form (O+4)
- [xx] PDF Version of Notice of Removal on Computer Disk
- [xx] Self Addressed Stamped Envelope
- [xx] Check in the amount of \$250.00

Would you kindly:

- [xx] File Notice and return to me in the envelope provided.

Thank you for your attention to this matter.

Very truly yours,
McDONNELL & ASSOCIATES, p.c.



Roberto K. Paglione

RKP/bb - Encl.
cc: Gerald Baldino, Jr., Esq.

CIVIL COVER SHEET

APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS June CereneDEFENDANTS Wal-mart Stores, Inc.(b) County of Residence of First Listed Plaintiff Monroe
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Benson, AR
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Gerald Baldino, Jr. Esq.
Sacchetti + Baldino
(610) 891-9212
308 East Second St.
Media, PA 19063Attorneys (If Known) Roberto Paglione, Esquire
McDonnell + Associates
(856) 429-5300
500 Route 70 West
Cherry Hill, NJ 08002

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|--|---|----------------------------|----------------------------|
| PTF | DEF | PTF | DEF |
| <input type="checkbox"/> 1 Citizen of This State | <input checked="" type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 Citizen of Another State | <input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

- (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ NoVIII. RELATED CASE(S) IF ANY N/A

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/7/05

SIGNATURE OF ATTORNEY OF RECORD

Roberto Paglione

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: June Cerene - Her 1 Box 68 Woodland Road, Mt. Pocono, PA 18344

Address of Defendant: Wal-Mart Stores, Inc., 702 S.W. 8th Street, Bentonville, AR 72716

Place of Accident, Incident or Transaction: Wal-Mart Store, Mt. Pocono, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?
RELATED CASE, IF ANY:

Yes ☐ No ☒

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Premises Liability
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Roberto K. Paglione, counsel of record do hereby certify:
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs; unable to certify since we represent
☐ Relief other than monetary damages is sought. Defendant, Wal-Mart.

DATE: 11/7/05 Roberto K. Paglione /s/ 87258
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/7/05 Roberto K. Paglione /s/ 87258

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

June Cerene

CIVIL ACTION

v.

Wal-Mart Stores, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

11/7/05

Date

Roberto K. Paglione /s/

Attorney-at-law

Def., Wal-Mart Stores, Inc.

Attorney for

856/429-5300

Telephone

856/429-5314

FAX Number

RPAGLIONE@MCDA-LAW.COM

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JUNE CERENE,	:	CIVIL ACTION-LAW
	:	
Plaintiff,	:	
vs.	:	CIVIL ACTION NO.:
	:	
WAL-MART STORES, INC.,	:	DEFENDANT'S, WAL-MART
WAL-MART STORE #2365,	:	STORES, INC.,
	:	NOTICE OF REMOVAL
Defendants.	:	
	:	JURY TRIAL DEMANDED

Defendant, Wal-Mart Stores, Inc., d/b/a Wal-Mart Store #2365 (herein referred to as "Wal-Mart"), files this Notice of Removal pursuant to 28 U.S.C. 1441(a) and (b) to remove this action from the Court of Common Pleas Philadelphia County, October Term, 2005, Case No.: 002216, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania and in support thereof states as follows:

1. On or about October 18, 2005, Plaintiff filed a Complaint in the Court of Common Pleas Philadelphia County ("the County Action") which was issued by the Clerk of said Court and served upon Wal-Mart on or about October 21, 2005. A Copy of the Complaint is attached to this Notice of Removal as Exhibit "A".

2. In the Complaint, Plaintiff June Cerene alleges that she was injured on Wal-Mart's premises in Mt. Pocono, Pennsylvania, and was caused to suffer serious and permanent physical injuries including, but not limited to: "injury to her hip, requiring total hip replacement revision, cerebral concussion, post concussive syndrome, exacerbation of C4-5, C5-6 and C6-7 radiculopathy, cervical myelopathy, T6-7, T7-8 and T8-9 radiculopathy, exacerbation of L3-4, L4-5 and L5-S1 radiculopathy, L2-3 and L3-4 radiculopathy secondary to intraforaminal and inferolateral herniated discs, traumatic

contusion of the right foot, traumatic contusion of the ribs, exacerbation of right knee, degenerative osteoarthritis and posterior medial meniscus tear", together with "shock and injury to her nerves and nervous system" all of which Plaintiff has been advised may be permanent in nature. Plaintiff also claims that she will expend large sums of money for medical attention and has lost wages and other financial expenses. (*See* Complaint, Count One, paragraphs 9-12). The subject accident occurred on October 20, 2003. Plaintiff seeks damages "in excess of \$50,000" in her Complaint. (*See* Complaint, "Wherefore" clause).

3. On or about October 25, 2005, the undersigned attorneys for Wal-Mart sent to Plaintiff's counsel a letter and Stipulation Limiting Damages explaining that diversity jurisdiction existed and that in order to avoid removal of the matter to federal court based on the issue of damages being over \$75,000, Plaintiff could execute the Stipulation to show that the value of the case did not, in fact exceed \$75,000. (*See* Stipulation Limiting Damages to Avoid Removal of Matter to Federal Court attached to this Notice as Exhibit "B").

4. To date, Plaintiff's counsel has not returned the Stipulation to Limit damages or otherwise indicated that he would voluntarily limit damages to \$75,000. Thus, Defendant Wal-Mart has a good faith belief that Plaintiff is seeking damages in excess of \$75,000 and the jurisdictional requirement for removal is now met.

5. Removal from Court of Common Pleas, Philadelphia County is proper under 28 U.S.C. § 1441 (b) which authorizes the removal of any civil action if "none of the parties in interest properly joined and served as a defendant is a citizen of the state in which the action is brought."

6. Wal-Mart is a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Arkansas and as such is not a citizen of the State of Pennsylvania. The accident occurred in Mt. Pocono, Pennsylvania. Plaintiff is a citizen and resident of Mount Pocono, Pennsylvania.

WHEREFORE, Defendant, Wal-Mart respectfully requests that the County Action be removed from the Court of Common Pleas for Philadelphia County to the United States District Court for the Eastern District of Pennsylvania.

LAW OFFICES OF McDONNELL & ASSOCIATES

By: 

Roberto K. Paglione, Esq. (Atty ID# 87258)
500 Route 70 West
Cherry Hill, NJ 08002
Tel. No.: (856) 429-5300

Attorneys for Defendant,
Wal-Mart Stores Inc., et al.

Dated: November 7, 2005

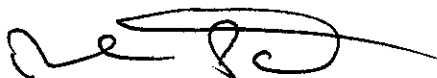
CERTIFICATE OF SERVICE

I, Roberto K. Paglione, Esquire, hereby certify that on November 7, 2005, I caused a true and correct copy of the foregoing Notice of Removal to be filed with the Court via mail and served, via United States first-class mail, postage prepaid upon:

Gerald B. Baldino, Jr., Esquire
SACCHETTA & BALDINO
308 East Second St.
Media, PA 19063

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

LAW OFFICES OF McDONNELL & ASSOCIATES



Roberto K. Paglione, Esquire (ID No.: 87258)
Attorneys for Defendant Wal-Mart Stores, Inc., et al.

EXHIBIT "A"

GERALD B. BALDINO, JR., ESQUIRE
Attorney I.D. No. 55624
SACCHETTA & BALDINO
308 East Second Street
Media, PA 19063
(610) 891-9212

Attorney for Plaintiff

**NEW
SUIT**

JUNE CERENE
HCR 1 Box 68 Woodland Rd
Mount Pocono, PA 18344
Plaintiff

ATTEST

OCT 18 2005

v.

LAURA PAONE

WAL-MART STORES, INC.
702 Northwest 8th Street
Bentonville, AR 72712
and
WAL-MART STORES, INC.
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102
and
WAL-MART STORE #2365
500 Route 940
Mt. Pocono, PA 18344
Defendants

JURY FEE PAID

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL ACTION - LAW

Code No. 2S - Premises Liability
Slip & Fall

OCTOBER 2005

002216

**TRIAL BY JURY OF TWELVE
MEMBERS IS DEMANDED**

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Philadelphia County Bar Association
Lawyers Referral and Information Service
1 Reading Center
Philadelphia, PA 19107
[215] 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion De Licenciados De Filadelfia
Servicio De Referencia E Informacion Lega
One Reading Center
Philadelphia, Pennsylvania 19107
Telef.: [215] 238-1701

*This is not an arbitration matter.
An assessment of damages hearing is
required.*

GERALD B. BALDINO, JR., ESQUIRE
Attorney I.D. No. 55624
SACCHETTA & BALDINO
308 East Second Street
Media, PA 19063
(610) 891-9212

Attorney for Plaintiff

JUNE CERENE
HCR 1 Box 68 Woodland Rd.
Mount Pocono, PA 18344
Plaintiff

v.

WAL-MART STORES, INC.
702 Northwest 8th Street
Bentonville, AR 72712
and
WAL-MART STORES, INC.
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102
and
WAL-MART STORE #2365
500 Route 940
Mt. Pocono, PA 18344
Defendants

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL ACTION - LAW

Code No. 2S - Premises Liability
Slip & Fall

**TRIAL BY JURY OF TWELVE
MEMBERS IS DEMANDED**

COMPLAINT

AND NOW, comes the plaintiff, June Cerene, by and through her attorney, Gerald B. Baldino, Jr., Esquire, and avers as follows:

1. Plaintiff, June Cerene, is an adult individual residing at HCR 1, Box 68, Woodland Road, Mt. Pocono, Pennsylvania.
2. Defendant Wal-Mart Stores, Inc. is a corporation existing and doing business under the laws of the Commonwealth of Pennsylvania, with a registered corporate office located at CT Corporation System, 1515 Market Street, Suite 1210, Philadelphia, Pennsylvania.
3. Defendant Wal-Mart Stores, Inc. is a business entity with corporate headquarters located at 702 Northwest 8th Street, Bentonville, Arkansas.

4. Wal-Mart Store #2365 is a retail establishment located at 500 Route 940, Mt. Pocono, Pennsylvania.

5. At all times relevant hereto, defendants were in the exclusive possession, management and control of the aforementioned Wal-Mart retail store #2365.

6. On or about October 20, 2003, plaintiff was a patron at defendants' store when she fell to the ground after slipping on wooden pellets which had spilled onto the sidewalk, where the pellets had been improperly stored and unsecured.

7. The accident was caused exclusively and solely by the defendants' negligence, in that:

(a) Defendants caused or permitted the scattered pellets to remain on the sidewalk, presenting a danger to plaintiff and other patrons of the store;

(b) Defendants failed to make a reasonable inspection of the sidewalk and the pallets where the pellets were stored, which would have revealed the dangerous condition created by the pellets;

(c) Defendants failed to give warning of the dangerous condition created by the scattered pellets, failed to erect barricades or to take any other safety precautions to prevent injury to the plaintiff and other patrons;

(d) Defendants failed to remove the pellets from the sidewalk;

(e) Defendants failed to exercise reasonable prudence and due care to keep the walking surfaces in a safe condition for plaintiff and other similarly invited patrons;

(f) Defendants violated the ordinances of the municipality of Mt. Pocono and the State of Pennsylvania pertaining to the maintenance of walkways and retail establishments;

(g) Defendants negligently stored the pellets on a pedestrian walkway;

(h) Defendants were otherwise negligent under the circumstances.

8. The defendants, through their employees, servants and agents, either had actual notice of the unsafe and dangerous condition of the sidewalk and sufficient time to correct the dangerous situation, or the condition existed for so long a period of time prior to the occurrence

that defendants, in the exercise of due care, could and should have known of the unsafe and dangerous condition of the sidewalk.

9. Solely as a result of the negligence of defendants, plaintiff was caused to suffer various physical and traumatic injuries, including but not limited to the following:

- a) Injury to her hip, requiring total hip replacement revision
- b) cerebral concussion
- c) post concussive syndrome
- d) exacerbation of C4-5, C5-6 and C6-7 radiculopathy
- e) cervical myelopathy
- f) T6-7, T7-8 and T8-9 radiculopathy
- g) exacerbation of L3-4, L4-5 and L5-S1 radiculopathy
- h) L2-3 and L3-4 radiculopathy secondary to intraforaminal and inferolateral herniated discs
- i) traumatic contusion of the right foot
- j) traumatic contusion of right lower ribs/right thorax
- k) right parietofrontal contusion with Battle sign
- l) traumatic right supraspinatus and infraspinatus tendonitis
- m) exacerbation and contusion of the right knee, degenerative osteoarthritis and posterior medial meniscus tear

10. As a direct result of the aforesaid slip and fall, plaintiff suffered severe shock to her nervous system, great physical pain, and mental anguish, all of which may continue for an indefinite period of time into the future.

11. Plaintiff has been compelled to expend various sums of money for medication and medical attention in attempting to remedy the aforementioned injuries.

12. As a direct result of the slip and fall, plaintiff has been prevented from attending to her usual duties and obligations, and believes that she may be prevented from so doing in future, as her injuries seem to be permanent in nature.

WHEREFORE, plaintiff, June Cerene, demands judgment against defendants, jointly and severally, in an amount in excess of \$50,000.00 and in excess of the compulsory arbitration limit of this court.



GERALD B. BALDINO, JR., ESQUIRE
Attorney for Plaintiff

VERIFICATION

GERALD B. BALDINO, JR., ESQUIRE verifies that he is the attorney of record for plaintiff herein, and is authorized to make this verification on her behalf, and that the statements made in the foregoing Complaint are true and correct to the best of his knowledge, information and belief, and understands that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


GERALD B. BALDINO, JR., ESQUIRE

Date: 10/7/05

SACCHETTA & Baldino

ATTORNEYS AT LAW

*THOMAS F. SACCHETTA
*GERALD B. Baldino, Jr.
MARC T. SACCHETTA
BRUCE H. MacKnight, Jr.

Members NJ & PA BAR

*Board-certified as a Civil Trial Advocate
by the National Board of Trial Advocacy

308 EAST SECOND STREET
Media, PA 19063
Telephone: 610-891-9212
Fax: 610-891-7190

EXECUTIVE CENTER OF GREENTREE
1 EVES DRIVE, SUITE 111
MARLTON, NJ 08053
Telephone: 856-985-1359
Fax: 609-267-0666

October 18, 2005

Wal-Mart Stores, Inc.
702 Northwest 8th Street
Bentonville, AR 72712


VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RE: Cerene v. Wal-Mart Stores, Inc.
Philadelphia C.C.P. October Term, 2005, No. 2216

Dear Sir/Madam:

I enclose a time-stamped copy of a complaint which has been filed against Wal-Mart Stores, Inc. in the Philadelphia, Pennsylvania Court of Common Pleas. Kindly forward this document to your legal department for immediate response. Thank you.

Very truly yours,


GERALD B. BALDINO, JR.

GBB:tmt
Enclosure

PLEASE Reply To Media

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

OCTOBER 2005**002216**

PLAINTIFF'S NAME JUNE CERENE	DEFENDANT'S NAME WAL-MART STORES, INC.
PLAINTIFF'S ADDRESS HCR 1, Box 68, Woodland Road Mt. Pocono, PA 18344	DEFENDANT'S ADDRESS 702 Northwest 8th Street Bentonville, AR 72712
PLAINTIFF'S NAME	DEFENDANT'S NAME WAL-MART STORES, INC.
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS c/o CT Corporation System 1515 Market Street, Suite 1210, Philadelphia, PA 19102
PLAINTIFF'S NAME	DEFENDANT'S NAME WAL-MART STORE #2365
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 500 Route 940 Mt. Pocono, PA 18344

TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NO. OF DEFENDANTS 3	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ/Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition Other: _____	<input type="checkbox"/> Commerce <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals	<input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> Will/Survival

CASE TYPE AND CODE (SEE INSTRUCTIONS)

Code No. 2S-Premises Liability-Slip & Fall

STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

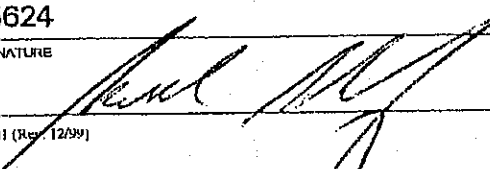
IS CASE SUBJECT TO
COORDINATION ORDER?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant:

Papers may be served at the address set forth below.

NAME OF Plaintiff/Petitioner/Appellant ATTORNEY Gerald B. Baldino, Jr., Esquire		ADDRESS (SEE INSTRUCTIONS) Sacchetta & Baldino 308 East Second Street Media, PA 19063
PHONE NUMBER 610-891-9212	FAX NUMBER 610-891-7190	E-MAIL ADDRESS jerry@sballdino.com
SUPREME COURT IDENTIFICATION NO. 55624		DATE 10/10/05
SIGNATURE 		

GERALD B. BALDINO, JR., ESQUIRE
Attorney I.D. No. 55624
SACCHETTA & BALDINO
308 East Second Street
Media, PA 19063
(610) 891-9212

Attorney for Plaintiff

ATTEST

OCT 18 2005

JUNE CERENE
HCR 1 Box 68 Woodland Rd.
Mount Pocono, PA 18344
Plaintiff

LAURA PAONE

v.

WAL-MART STORES, INC.
702 Northwest 8th Street
Bentonville, AR 72712
and
WAL-MART STORES, INC.
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102
and
WAL-MART STORE #2365
500 Route 940
Mt. Pocono, PA 18344
Defendants

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL ACTION - LAW

Code No. 2S - Premises Liability
Slip & Fall

OCTOBER 2005

602216

**TRIAL BY JURY OF TWELVE
MEMBERS IS DEMANDED**

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Philadelphia County Bar Association
Lawyers Referral and Information Service
1 Reading Center
Philadelphia, PA 19107
[215] 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion De Leonclados De Filadelfia
Servicio De Referencia E Informacion Lega
One Reading Center
Philadelphia, Pennsylvania 19107
Telef.: [215] 238-1701

*This is not an arbitration matter.
An assessment of damages hearing is
required.*

GERALD B. BALDINO, JR., ESQUIRE
Attorney I.D. No. 55624
SACCHETTA & BALDINO
308 East Second Street
Media, PA 19063
(610) 891-9212

Attorney for Plaintiff

JUNE CERENE
HCR 1 Box 68 Woodland Rd.
Mount Pocono, PA 18344
Plaintiff

v.

WAL-MART STORES, INC.
702 Northwest 8th Street
Bentonville, AR 72712
and
WAL-MART STORES, INC.
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102
and
WAL-MART STORE #2365
500 Route 940
Mt. Pocono, PA 18344
Defendants

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL ACTION - LAW

Code No. 2S - Premises Liability
Slip & Fall

TRIAL BY JURY OF TWELVE
MEMBERS IS DEMANDED

COMPLAINT

AND NOW, comes the plaintiff, June Cerene, by and through her attorney, Gerald B. Baldino, Jr., Esquire, and avers as follows:

1. Plaintiff, June Cerene, is an adult individual residing at HCR 1, Box 68, Woodland Road, Mt. Pocono, Pennsylvania.
2. Defendant Wal-Mart Stores, Inc. is a corporation existing and doing business under the laws of the Commonwealth of Pennsylvania, with a registered corporate office located at CT Corporation System, 1515 Market Street, Suite 1210, Philadelphia, Pennsylvania.
3. Defendant Wal-Mart Stores, Inc. is a business entity with corporate headquarters located at 702 Northwest 8th Street, Bentonville, Arkansas.

4. Wal-Mart Store #2365 is a retail establishment located at 500 Route 940, Mt. Pocono, Pennsylvania.

5. At all times relevant hereto, defendants were in the exclusive possession, management and control of the aforementioned Wal-Mart retail store #2365.

6. On or about October 20, 2003, plaintiff was a patron at defendants' store when she fell to the ground after slipping on wooden pellets which had spilled onto the sidewalk, where the pellets had been improperly stored and unsecured.

7. The accident was caused exclusively and solely by the defendants' negligence, in that:

(a) Defendants caused or permitted the scattered pellets to remain on the sidewalk, presenting a danger to plaintiff and other patrons of the store;

(b) Defendants failed to make a reasonable inspection of the sidewalk and the pallets where the pellets were stored, which would have revealed the dangerous condition created by the pellets;

(c) Defendants failed to give warning of the dangerous condition created by the scattered pellets, failed to erect barricades or to take any other safety precautions to prevent injury to the plaintiff and other patrons;

(d) Defendants failed to remove the pellets from the sidewalk;

(e) Defendants failed to exercise reasonable prudence and due care to keep the walking surfaces in a safe condition for plaintiff and other similarly invited patrons;

(f) Defendants violated the ordinances of the municipality of Mt. Pocono and the State of Pennsylvania pertaining to the maintenance of walkways and retail establishments;

(g) Defendants negligently stored the pellets on a pedestrian walkway;

(h) Defendants were otherwise negligent under the circumstances.

8. The defendants, through their employees, servants and agents, either had actual notice of the unsafe and dangerous condition of the sidewalk and sufficient time to correct the dangerous situation, or the condition existed for so long a period of time prior to the occurrence

that defendants, in the exercise of due care, could and should have known of the unsafe and dangerous condition of the sidewalk.

9. Solely as a result of the negligence of defendants, plaintiff was caused to suffer various physical and traumatic injuries, including but not limited to the following:

- a) injury to her hip, requiring total hip replacement revision
- b) cerebral concussion
- c) post concussive syndrome
- d) exacerbation of C4-5, C5-6 and C6-7 radiculopathy
- e) cervical myelopathy
- f) T6-7, T7-8 and T8-9 radiculopathy
- g) exacerbation of L3-4, L4-5 and L5-S1 radiculopathy
- h) L2-3 and L3-4 radiculopathy secondary to intraforaminal and inferolateral herniated discs
- i) traumatic contusion of the right foot
- j) traumatic contusion of right lower ribs/right thorax
- k) right parietofrontal contusion with Battle sign
- l) traumatic right supraspinatus and infraspinatus tendonitis
- m) exacerbation and contusion of the right knee, degenerative osteoarthritis and posterior medial meniscus tear

10. As a direct result of the aforesaid slip and fall, plaintiff suffered severe shock to her nervous system, great physical pain, and mental anguish, all of which may continue for an indefinite period of time into the future.

11. Plaintiff has been compelled to expend various sums of money for medication and medical attention in attempting to remedy the aforementioned injuries.

12. As a direct result of the slip and fall, plaintiff has been prevented from attending to her usual duties and obligations, and believes that she may be prevented from so doing in future, as her injuries seem to be permanent in nature.

WHEREFORE, plaintiff, June Cerene, demands judgment against defendants, jointly and severally, in an amount in excess of \$50,000.00 and in excess of the compulsory arbitration limit of this court.



GERALD B. BALDINO, JR., ESQUIRE
Attorney for Plaintiff

VERIFICATION

GERALD B. BALDINO, JR., ESQUIRE verifies that he is the attorney of record for plaintiff herein, and is authorized to make this verification on her behalf, and that the statements made in the foregoing Complaint are true and correct to the best of his knowledge, information and belief, and understands that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


GERALD B. BALDINO, JR., ESQUIRE

Date: 10/27/05

Sacchetta & Baldino

ATTORNEYS AT LAW

308 East Second Street
Media, PA 19063

CERTIFIED MAIL



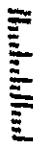
7004 1160 0003 3310 8193

Certified Mail
Return Receipt Requested

**RETURN RECEIPT
REQUESTED**

Wal-Mart Stores, Inc.
702 Northwest 8th Street
Bentonville, AR 72712

72712+0611



10/24/20
08:07

TO: 0215
PH: 8095
OF PGS: 1

97970222926987



TRK#: 70041160000333108193

CARR: USPS

FROM:

MAILSTOP: LEGAL

MAILROUTE: BLUE

MAIL STATION: 0215

0215

EXHIBIT "B"

LAW OFFICES OF
McDONNELL & ASSOCIATES, P.C.

A Pennsylvania Professional Corporation
500 Route 70 West
Cherry Hill, New Jersey 08002
Telephone: (856) 429-5300
Facsimile: (856) 429-5314

Pennsylvania Office:

601 South Henderson Road, Suite 152
King of Prussia, Pennsylvania 19406
Telephone: (610) 337-2087

Reply To: **New Jersey**

E-Mail Address: rpaglione@mcdonald-law.com

October 25, 2005

Gerald B. Baldino, Jr., Esquire
SACCHETTA & BALDINO
308 East Second Street
Media, PA 19063

RE: June Cerene v. Wal-Mart Stores, Inc., et al
October Term, 2005, Case No.: 002216

Dear Mr. Baldino:

Please be advised that our firm represents Defendant, Wal-Mart Stores, Inc., in the above-captioned matter. Our client, a Delaware corporation with its principal place of business in Arkansas, has directed us to remove this matter to Federal Court. **We intend to do so by October 31, 2005.**

If, prior to that date, you **sign and deliver to us** the enclosed Stipulation agreeing that the full amount of any and all damages your client may be awarded in this matter, if any, shall not exceed Seventy-five Thousand Dollars (\$75,000.00), we will agree not to remove the case, because that element of diversity jurisdiction will no longer be met.

Thank you.

Very truly yours,
McDONNELL & ASSOCIATES, p.c.



Roberto K. Paglione

RKP/rp - enc.

Patrick J. McDonnell *
Courtney Seda McDonnell *
Karen L. Green *
Roberto K. Paglione *
Lindsey S. Forshay
Robert M. Dunn * †
Jason E. Fine *
Michael Andrews *
David M. Koller *
Sarah R. Lavelle *

* Admitted in Pennsylvania and New Jersey
† Admitted in New York

FILE COPY

**IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY, PENNSYLVANIA**

JUNE CERENE,	:	
	:	
Plaintiffs,	:	Civil Action - Law
	:	
v.	:	September Term, 2005
	:	Case No.: 002216
WAL-MART STORES, INC., et al,	:	
	:	STIPULATION TO LIMIT
	:	DAMAGES
	:	
Defendants.	:	JURY TRIAL DEMANDED
	:	

THE PARTIES hereby understand and accept the following:

- Defendants Wal-Mart Stores, Inc. (improperly also pled as "Wal-Mart Store #2365", herein referred to as "Wal-Mart") has the right, pursuant to 28 U.S.C. §1441, to remove this matter to Federal Court;
- Wal-Mart is willing to forego that right in exchange for the agreement of all parties to limit the damages which the plaintiff is entitled to recover, if any; and
- In reliance upon the express agreement of all parties to the limitation of damages set forth herein, Wal-Mart will agree not to exercise its right to remove this matter to Federal Court.

THEREFORE, on this _____ day of October 2005, the parties hereby STIPULATE AND AGREE that the full amount and/or value of any and all damages, costs, expenses and fees (including pre-judgment interest) to which the Plaintiff may be entitled in this matter shall not exceed Seventy-Five Thousand Dollars (\$75,000.00), even if a jury or arbitrator or other finder of fact or law awards more than the sum of \$75,000 to Plaintiff.

SACCHETTA & BALDINO


Date: _____

Gerald B. Baldino, Jr., Esquire

Attorney for Plaintiff

LAW OFFICES OF McDONNELL & ASSOCIATES, p.c.

Date: Oct. 25, 2005



Roberto K. Paglione, Esquire
Attorney ID No.: 87258

LAW OFFICES OF McDONNELL & ASSOCIATES, p.c.
500 Route 70 West
Cherry Hill, New Jersey 08002
Tel. No.: (856) 429-5300

Attorneys for Defendant, Wal-Mart Stores, Inc., et al